

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1483	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR		Application Number 10/020,030	
on <u>09/24/2007</u>		Filed 10/30/2001	
Signature <u>/Jamie Cameron/</u>		First Named Inventor Steven Duane Myers	
Typed or printed name <u>Jamie Cameron</u>		Art Unit 2623	
		Examiner Hoang Nguyen	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/>	applicant/inventor.	<u>/Stephen S. Roche/</u> Signature	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Stephen S. Roche</u> Typed or printed name	
<input checked="" type="checkbox"/>	attorney or agent of record. Registration number <u>52,176</u>	<u>(720) 562-2280</u> Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>09/24/2007</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/>	*Total of <u>1</u> forms are submitted.		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Steven Duane Myers Confirmation No.: 8958
Application No.: 10/020,030 Group No.: 2623
Filed: October 30, 2001 Examiner: Nguyen BA, Hoang Vu A
For: MULTI-POINT MULTI-CHANNEL DATA DISTRIBUTION SYSTEM

Mail Stop: AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Introductory Comments

In response to the Advisory Action dated June 14, 2007, the Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith.

Claims 32-47 remain pending in the application. Claims 33-37 and 41-45 stand rejected under 35 U.S.C. § 132(a) as adding new matter and under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The drawings are objected to under 37 C.F.R. § 1.83(a) as not showing every feature of the invention as specified in the claims. The Applicant respectfully disagrees with the rejections and objections and believes such allegations represent clear error in establishing a *prima facie* rejection. The Applicant thus respectfully requests review of the rejections and objections for at least the following reasons.

Remarks

35 U.S.C. § 132 and 35 U.S.C. § 112 Rejections

In the Final Office Action, claims 33-37 and 41-45 were objected to under 35 U.S.C. § 132(a) as adding new matter. Claims 33-37 and 41-45 were also rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In the Applicant's recent Expedited Response (responding to the Final Office Action), the Applicant traversed these rejections. The Examiner, in the recent Advisory Action, rejected the Applicant's arguments and proceeded to maintain the rejections. However, in doing so the Examiner mischaracterized claims 33 and 41. This mischaracterization represents clear error. The rejections should be withdrawn accordingly.

Regarding claims 33 and 41, in the recent Advisory Action the Examiner states that *"the second subscriber unit as claimed is daisy-chained to the first subscriber unit."* (Advisory Action, Page 2, Section 2, Paragraph 2.) The Examiner continues that the *"second subscriber unit is not construed to be another subscriber unit that is configured in parallel with the first subscriber unit...."* (Advisory Action, Page 2, Section 2, Paragraph 2.) The Examiner proceeds to maintain the rejection under 35 U.S.C. § 132(a). In particular, the Examiner contends that a second subscriber unit daisy-chained to a first subscriber unit is new matter. In addition, the Examiner proceeds to maintain the rejection under 35 U.S.C. § 112, first paragraph. In particular, the Examiner contends the specification does not teach a second subscriber unit daisy-chained to a first subscriber unit. The objection and rejection to claims 34, 35, 36, and 37, and 42, 43, 44, and 45, which depend from claims 33 and 41 respectfully, is also maintained.

Claim 33 does not require the second subscriber unit to be daisy-chained to the first subscriber unit. Rather, claim 33 merely requires the second subscriber unit to receive the second CDMA signal. Claim 33 depends from claim 32, which recites a first subscriber unit that also receives the second CDMA signal. Neither claim 33 nor claim 32 requires the second subscriber unit to be daisy-chained to the first subscriber unit, as mischaracterized by the Examiner. This mischaracterization of the second subscriber unit

in claim 33 represents clear error on the Examiner's part and the rejection should be withdrawn accordingly.

Regardless, the Applicant contends that no new matter has been added and that the claimed subject matter is adequately described in the specification. The objections and rejections should be withdrawn accordingly.

Regarding the objection to claims 33, 41, 36, 44, 37, and 45, the specification teaches a second subscriber unit in that *multiple subscribers* (page 2, line 17) and a *plurality of subscriber sites* (page 5, line 20; page 8, line 21) are described. The accompanying description of FIG. 3 indicates that subscriber unit 300 is illustrative of the type of subscriber unit that is provided at *each* subscriber site (page 9, line 23). The second subscriber unit is another, or second, subscriber unit of the multiple subscribers or plurality of subscriber sites.

Regarding the objection to claims 34, 42, 35, 43, 36, 44, 37, and 45, the specification teaches in several instances multiplexing a first local demodulated signal onto a first local network for delivery to a first destination device. In a first instance, the specification discloses subscriber site equipment 112-119 that demodulates two RF channels simultaneously and then *multiplexes the two demodulated channels onto a single Ethernet interface* (page 6, lines 11-12). In another instance, the specification discloses a subscriber unit 300 that *multiplexes received data from both downstream channels onto a local subscriber network* is disclosed (page 10, lines 12-13). In yet another instance, the specification discloses demodulators 322A and 322B that demodulate a received signal into a unicast signal 101U and a multicast signal 101M and *multiplex the digital signals onto an Ethernet link 325* (page 11, lines 21-23).

Regarding the objection to claims 37 and 45, the specification clearly teaches a "second unicast signal". The specification discloses a transmission headend facility 110 that transmits *multiple* channels of video, audio, or other data in *unicast* mode to *multiple subscribers* via a segmented frequency band (page 5, lines 23-26). The second unicast signal is another one, or second, of the multiple channels of video, audio or other data transmitted in unicast mode to multiple subscribers.

Regarding the objection to claims 36 and 44, as discussed above the specification teaches multiple subscriber units, multiple unicast signals, and a multicast signal. The

third local demodulated signal referred to in claims 36 and 44 is the multiplex signal demodulated by another one of the second subscriber units into another, or third, local demodulated signal and multiplexed onto one of the local networks. The specification also discloses multiple *subscriber sites* (page 5, line 20; page 8, line 21). Each subscriber site has a local network (page 10, line 13). The second local network referred to in claims 36 and 44 is another, or second, local network at another local subscriber site. The third destination device referred to in claims 36 and 44 is another one, or third, of the devices on one of the local networks. As further discussed above, the third local demodulated signal is another, or third, local demodulated signal. The second local network is another, or second, local network. Another one of the subscriber units multiplexes the third local demodulated signal onto second local network.

Objections to the Drawings Under 37 C.F.R. § 1.83(a)

The drawings are objected to under 37 C.F.R. § 1.83(a) as not showing every feature of the invention as specified in the claims. In particular, the final Office action objects that the drawings do not show a second subscriber unit, a multiplexer, a second unicast signal, a third local demodulated signal, a second local network, and a third destination device. The Applicant requests that the objection be withdrawn.

The Applicant is required to *furnish drawings where necessary for the understanding of the subject matter to be patented* (37 C.F.R. § 1.81(a)). Additional drawings that literally show multiple subscriber units are not necessary to the understanding of the claimed invention. Rather, the drawings and specification together clearly provide for a sufficient understanding of the claimed subject matter.

For example, FIG. 1 illustrates a subscriber site 120, while FIG. 3 illustrates a subscriber unit 300. The accompanying description of FIG. 1 indicates that multiple subscriber sites are contemplated (page 5, line 20). In addition, the accompanying description of FIG. 3 indicates that subscriber unit 300 is illustrative of the type of subscriber unit that is provided at *each* subscriber site (page 9, line 23). The second subscriber unit referred to in the claims is another subscriber unit provided at another subscriber site. The illustration of subscriber unit 300 therefore adequately provides for the necessary understanding of the second subscriber unit as claimed. Regardless,

multiple subscriber sites 120 (A1, A2, B1, B2, C1, and C2 in FIG. 7) are shown in the drawings.

The Applicant notes that, contrary to the assertion in the final Office action, a multiplexer is not claimed.

CONCLUSION

Based on the above remarks, the Applicant requests reversal of the rejection of claims 33-37 and 41-45 under 35 U.S.C. § 132(a) and 35 U.S.C. § 112, first paragraph, and the objection to the drawings under 37 C.F.R. § 1.83(a).

The Applicant hereby authorizes the Office to charge Deposit Account No. 21-0765 the appropriate fee under 37 C.F.R. § 41.20(b)(1) for the Notice of Appeal filed herewith, and the fee under 37 C.F.R. § 1.17(a)(1) for a three-month extension of time. The Applicant believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765 accordingly.

Respectfully submitted,

/Stephen S. Roche/

SIGNATURE OF PRACTITIONER

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